

REMARKS

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As originally filed the application included claims 1-43. No claims have been cancelled.

Claims 23-30, 32-41, and 43 are allowed. Claims 4, 5, 13, and 14 stand objected to. Each of claims 4, 5, 13, and 14 has been amended into independent form to include all of the limitations of their respective base claims. Hence, claims 4, 5, 13, and 14 are in condition for allowance.

Claims 31 and 42 were previously withdrawn from consideration pursuant to an election requirement. Claim 31 is dependent from claim 23 and claim 42 is dependent from claim 37. Both claims 23 and 37 have been allowed. Accordingly, claims 31 and 42 are also allowable.

As a result of the above, claims 3, 12, and 21 remain pending as non-elected claims. In addition, allowance of claims 1, 2, 6-11, 15-20, and 22 remains at issue.

The rejections of claims 1, 2, 6-11, 15-20, and 22 are respectfully traversed. It is respectfully submitted that none of the cited art references or their combination shows, describes or suggests the invention defined in these claims. Accordingly, reconsideration of the rejected claims is respectfully requested.

Claims 1, 2, 7, 8, 10, 11, 16, 17, 19, and 20 stand rejected under 35 U.S.C. § 103(a) as being obvious over Liddicoat et al., USPAP 2002/0183836 and in view of Langberg et al., U.S. Patent No. 6,402,781. Claims 6 and 15 stand rejected under 35 U.S.C. § 103(a) as being obvious over Liddicoat et al., and Langberg et al. and further in view of Solem, USPAP 2001/0018611. Lastly, claims 9, 18, and 22 stand rejected under 35 U.S.C. § 103(a) as being obvious over Liddicoat et al. and Langberg et al. and further in view of Lashinski et al., USPAP 2002/0151961. Again, reconsideration of these claims is respectfully requested.

As defined in claims 1, 10, and 19, the invention is directed to a device and method for effecting mitral valve annulus geometry. The device includes a first anchor which may be fixed in the coronary sinus of a heart, a cable fixed to the first anchor and extending proximally therefrom, a second anchor which may be fixed in the heart proximal to the first anchor and arranged to slidably receive the cable, and a lock that locks the cable on the second anchor. As a result, when the first and second anchors are fixed within the heart, the cable may be drawn proximally and locked on the second anchor to effect mitral valve geometry.

Independent claims 1, 10, and 19 are rejected as being obvious in view of Liddicoat et al. and Langberg et al. Specific reliance is made of Figures 8 and 9 and paragraph [0039] of Liddicoat et al. and Figures 2 and 2A and column 8, lines 52-63 of Langberg et al.

Liddicoat et al. describes a device having a cable attached to a distal anchor (staple) and which is slidably threaded through loops of a series of proximal anchors (staples). The cable is described as being fixed to only the distal anchor. Nothing is mentioned about where the proximal end is anchored or if it is even anchored at all within the heart. Actually, the staples proximal to the most distal staple are not anchors at all in that they do not anchor anything except themselves. In actuality, the staples proximal to the most distal staple are being used as guides that guide the cable through the coronary sinus. Hence, it is respectfully submitted that the Liddicoat et al. device not only fails to show, describe or suggest the lock recited in the claims, but in actuality, also fails to show or describe a second (proximal) anchor as defined in claims 1, 10, and 19.

Langberg et al. describes a catheter-like device which includes an elongated forming member therein which extend from an intermediate point within the device to and out the proximal end of the device. The device itself extends all the way from the great cardiac vein at its distal end to and through the ostium for contact with the interatrial septum at its proximal end. The general shape of the device at its distal end serves to anchor the distal end of the device in the great cardiac vein and not the coronary sinus. The proximal end of the device of Figures 2 and 2A includes a lock for locking the forming element. The device does not include a proximal anchor. *Do not need all elements*

From the foregoing it is respectfully submitted that the Liddicoat et al. and Langberg et al. devices are entirely different in structure and operation from the device as defined in independent claims 1, 10, and 19. The Liddicoat et al. device has multiple staples with only one staple serving as an anchor while the others serve as cable guides. It has no lock associated with a proximal anchor. In addition, it is respectfully argued, that the Liddicoat et al. device even lacks the proximal anchor. The proximal end of the device is not anchored. While the Langberg et al. device has a lock, it does not have the second anchor to which the forming element may be locked. Still further, the distal end of the device is anchored in the great cardiac vein. The device does not include a distal anchor for anchoring in the coronary sinus.

Not only are Liddicoat et al. and Langberg et al. lacking recited structure. Still further, neither of these references contains any suggestion as to why or how aspects of

these two very different structures should or could be combined. In order for 35 U.S.C. § 103(a) to apply and render the claim unallowable, there must be such a clear suggestion or teaching in the references. Such a suggestion is totally absent. It is therefore respectfully submitted that the combination of Liddicoat et al. and Langberg et al. is solely the product of hindsight. There simply is no suggestion of the desirability or manner of the combination in either of the references.

From the foregoing, it is respectfully submitted that claims 1, 10, and 19 are clearly allowable over the 35 U.S.C. § 103(a) rejection. Allowance of these claims is respectfully urged.

Since claims 2 and 6-9 depend from claim 1, claims 11 and 15-18 depend from claim 10 and claims 20 and 22 depend from claim 19, these claims are also considered allowable for the same reasons. Favorable reconsideration is respectfully urged.

Lastly, with the allowance of claims 1, 10, and 19, non-elected claims 3, 12, and 21 should also be allowable. Allowance of these claims are also respectfully requested.

### **CONCLUSION**

In conclusion, it is respectfully submitted that claims 4, 5, 13, and 14 are now in condition for allowance and that the allowability of rejected claims 1, 2, 6-11, 15-20, and 22 has been demonstrated. Further, non-elected claims 31 and 42 are allowable for depending from allowed claims and non-elected claims 3, 12, and 21 should also be allowed for the same reasons. Hence, it is respectfully submitted that all claims are in condition for allowance. If any claims is found to not be allowable, it is respectfully requested that this paper be entered on the grounds that it places the application into better condition for appeal for at least having placed objected to claims 4, 5, 13, and 14 into condition for allowance.

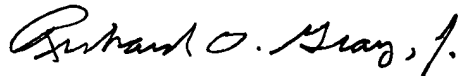
In the event additional fees are due as a result of this amendment, payment for those fees has been enclosed in the form of a check. Should further payment be required to cover such fees you are hereby authorized to charge such payment to Deposit Account No. 07-1897.

Should a telephone conference with the undersigned be considered helpful in resolving any outstanding issues and advancing the application to issue, such a conference with the undersigned is invited and would be gratefully appreciated.

Dated this 5<sup>th</sup> day of December, 2003.

Respectfully submitted,

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